

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ODE OBATAIYE,

Plaintiff,

v.

CHARLES E. WARREN et al.,

Defendants.

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Civ. No. 14-5462 (FLW) (TJB)

MEMORANDUM AND ORDER

Plaintiff, Ode Obataiye (“Obataiye” or “Plaintiff”), is a state prisoner, presently incarcerated at East Jersey State Prison, in Rahway, New Jersey. He is proceeding *pro se* in this action with a Fourth Amended Complaint asserting claims under 42 U.S.C. § 1983. (ECF No. 47.) On April 16, 2019, the defendants filed a motion for summary judgment in their favor.¹ (ECF No. 77.) Obataiye filed a letter dated April 17, 2019, indicating that he would be seeking no further discovery in this action, (ECF No. 78), but he has, as of yet, filed no opposition to the summary judgment motion.

In the interests of justice, and consistent with the well-established preference for deciding claims on their merits rather than on procedural technicalities, *see Dole v. Arco Chem. Co.*, 921 F.2d 484, 487 (3d Cir. 1990), the Court will permit Obataiye, as a *pro se* litigant, one final opportunity to file an opposition to the pending motion for summary judgment. Obataiye shall file any opposition papers within 30 days of the entry of this Memorandum and Order. If he does not, the Court will decide the summary judgment motion as unopposed. Defendants shall

¹ This motion is inaccurately listed on the docket as a motion to dismiss. (*See* ECF No. 80.)

be permitted 14 days to file a reply after Obataiye has filed any opposition or after his time to do so has expired.

Accordingly, IT IS, on this 26th day of June 2019,

ORDERED that Plaintiff shall file any opposition to Defendants' pending motion for summary judgment within 30 days of the entry of this Memorandum and Order; and it is further

ORDERED that Defendants may file a reply brief within 14 days of Plaintiff's filing of any opposition papers or of the expiration of Plaintiff's time to do so; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Memorandum and Order to Plaintiff by regular U.S. mail.

s/Freda L. Wolfson
FREDA L. WOLFSON
U.S. Chief District Judge